

SENATE BILL 82

By Faulk

AN ACT to amend Tennessee Code Annotated, Title 2;  
Title 4; Title 16 and Title 17, relative to judges.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 17-4-109(d), is amended by deleting the language “(a)(2)” in the last sentence.

SECTION 2. Tennessee Code Annotated, Section 17-4-112, is amended by deleting subsection (a) in its entirety and substituting instead the following:

(a)

(1) When a vacancy occurs in the office of an appellate court after July 1, 2011, by death, resignation or otherwise:

(A) The governor shall fill the vacancy by appointing one (1) of the three (3) persons nominated by the judicial nominating commission pursuant to § 17-4-109; or

(B) The governor shall fill the vacancy by appointing any person who is duly licensed to practice in this state and who is fully qualified under the constitution and statutes of this state to fill the office if:

(i) The governor is not satisfied with the nominees submitted pursuant to § 17-4-109; or

(ii) The judicial nominating commission does not furnish a list of three (3) nominees to the governor within sixty (60) days after receipt of written notice from the governor that a vacancy has occurred.

(2) The governor shall fill the vacancy no earlier than sixty (60) days and no later than ninety (90) days following receipt by the judicial nominating commission of written notice from the governor that a vacancy has occurred.

(3) Prior to making an appointment pursuant to subdivision (a)(1), the governor shall direct the Tennessee bureau of investigation or other appropriate agencies to perform appropriate financial and criminal background investigations and inquiries of the prospective appointees, and the governor shall review and assess the results of the background investigations and inquiries.

SECTION 3. Tennessee Code Annotated, Section 17-4-113, is amended by deleting the section in its entirety.

SECTION 4. Tennessee Code Annotated, Section 17-4-114(a)(3), is amended by deleting the language “subsection (c) or subdivision (d)(2)” and substituting instead the language “subsection (c), subdivision (d)(2) or subsection (e)”.

SECTION 5. Tennessee Code Annotated, Section 17-4-114(c) and (d)(2), are amended by deleting the language “or § 17-4-113”.

SECTION 6. Tennessee Code Annotated, Section 17-4-115(c) and (d)(2), are amended by deleting the language “or § 17-4-113”.

SECTION 7. Tennessee Code Annotated, Section 17-4-116(a) and (c)(2), are amended by deleting the language “or § 17-4-113”.

SECTION 8. Tennessee Code Annotated, Section 17-4-114, is amended by adding the following new subsection thereto:

(e) If the governor appointed an incumbent appellate judge pursuant to § 17-4-112(a)(1)(B), then subdivision (b)(1) shall not be applicable and the unexpired term shall be filled by means of a contested election conducted in accordance with general election law set forth in title 2. In accordance with § 2-13-203, each political party may nominate

a candidate and independent candidates may qualify under the general election law for the contested election. After the office is filled by contested election under this subsection (e), this chapter concerning the evaluation and retention process shall again apply to the office.

SECTION 9. Tennessee Code Annotated, Section 17-4-115(a)(3), is amended by deleting the language “subsection (c) or subdivision (d)(2)” and substituting instead the language “subsection (c), subdivision (d)(2) or subsection (e)”.

SECTION 10. Tennessee Code Annotated, Section 17-4-115, is amended by adding the following new subsection thereto:

(e) If the governor appointed an incumbent appellate judge pursuant to § 17-4-112(a)(1)(B) and the election of the judge to the office would be the judge’s first full eight-year term in such office, then subdivision (b)(1) shall not be applicable and the term shall be filled by means of a contested election conducted in accordance with general election law set forth in title 2. In accordance with § 2-13-203, each political party may nominate a candidate and independent candidates may qualify under the general election law for the contested election. After the office is filled by contested election under this subsection (e), this chapter concerning the evaluation and retention process shall again apply to the office.

SECTION 11. This act shall take effect July 1, 2011, the public welfare requiring it, and shall apply to vacancies that occur on or after the effective date of this act.